

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

L.C. CUNNINGHAM,

Plaintiff,

v.

J. PERDROZA, et al.,

Defendant(s).

Case No. 1:23-cv-00041-ADA-EPG (PC)

**ORDER REQUIRING STATEMENTS
FROM PARTIES REGARDING
SCHEDULE AND DISCOVERY**

THIRTY (30) DAY DEADLINE

**ORDER DIRECTING CLERK TO
TERMINATE ECF NO. 28**

The Court has screened Plaintiff's complaint and has ordered the case to proceed. Moreover, Defendants have filed a notice to opt out of the early settlement conference. (ECF No. 28). Before scheduling this case, the Court will require each party to submit a statement regarding the schedule and discovery matters.

The statements regarding the schedule and discovery shall be filed within thirty days from the date of service of this order. They should be filed with the Court, titled "SCHEDULING AND DISCOVERY STATEMENT," and include the name of the party filing the statement. They shall address all of the following issues:

- i. A brief summary of the parties' claims and/or defenses.
- ii. The name and, if known, the address and telephone number of each witness, besides expert witnesses, the party may call at trial.

- 1 iii. A description by category and location of all documents the party may use at
- 2 trial.
- 3 iv. Whether any third parties, other than Plaintiff's institution of confinement, are
- 4 likely to have relevant documents.
- 5 v. Whether the party intends to use expert witnesses.
- 6 vi. If a settlement conference has not occurred, when the party will be prepared to
- 7 participate in a settlement conference.

8 Defendant(s)' Scheduling and Discovery Statement shall also address all of the following
9 issues:

- 10 vii. Whether a third party subpoena directed at Plaintiff's institution of
- 11 confinement will be necessary to obtain relevant documents.
- 12 viii. Whether Defendant(s) intend to challenge the issue of exhaustion and, if so,
- 13 when Defendant(s) will be ready to file a motion for summary judgment
- 14 regarding the issue of exhaustion.
- 15 ix. Whether witness statements and/or evidence were generated from
- 16 investigation(s) related to the event(s) at issue in the complaint, such as an
- 17 investigation stemming from the processing of Plaintiff's grievance(s).¹
- 18 x. Whether there are any video recordings or photographs related to the
- 19 incident(s) at issue in the complaint, including video recordings and
- 20 photographs of Plaintiff taken following the incident(s).
- 21 xi. Whether Defendant(s) intend to argue that Defendant(s) are not properly
- 22 named because they are not the individual(s) responsible for the action(s)
- 23 described in the complaint (*i.e.*, someone else did or is responsible for the
- 24 action(s) alleged in the complaint).

25 \\

26 ¹ See *Woodford v. Ngo*, 548 U.S. 81, 94-95 (2006) (“[P]roper exhaustion improves the quality of those
27 prisoner suits that are eventually filed because proper exhaustion often results in the creation of an administrative
28 record that is helpful to the court. When a grievance is filed shortly after the event giving rise to the grievance, witnesses can be identified and questioned while memories are still fresh, and evidence can be gathered and preserved.”).

1 Finally, any party may also include any information that the party believes would assist in
2 discovery and/or scheduling the case.

3
4 IT IS SO ORDERED.

5 Dated: **June 22, 2023**

/s/ Eric P. Grogan
6 UNITED STATES MAGISTRATE JUDGE